them before 1937. Two trailers, equipped with complete dental facilities, have enabled three dentists, added to the staff of this bureau in 1937, to examine the teeth of many thousands of children in the rural districts, provide temporary repairs, and give advice to those children who are in need of such services. Dental hygienists and a nutritionist provide educational services.

Special facilities for finding crippled children and providing them with relief for their physical handicaps have been undertaken. Clinics for diagnosis, without cost to parents, have been conducted in the counties of the State.

During the year three new full-time county health units have been added to the seventeen such units that existed in California prior to this year. The new units are in Yolo, Santa Cruz, and Ventura counties. The Yolo County unit is actually a reëstablished unit, as the health work of this county was formerly conducted upon a full-time basis.

Through the provision of Social Security funds, the State Department of Public Health has been enabled to establish, in coöperation with the University of California, a school for the training of sanitary inspectors and health officers. Candidates for such training have come from all of the western states. While the State Department of Public Health has acted mainly as sponsor of the activities conducted by this school, it has assisted directly in passing upon the qualifications of candidates, and in the provision of special training along practical lines of health administration.

No special problems in communicable disease control have been encountered during the year. Influenza of a severe type was quite prevalent during the early part of 1937, but no extensive outbreak prevailed. Public health conditions, in general, have been good throughout the year. Marriages and births have increased approximately 10 per cent over 1936.

MALPRACTICE SUIT PROBLEM IN LOS ANGELES COUNTY

Report of the Los Angeles County Medical Association Committee on Defense on December 16, 1937

Considerable time and effort has been spent by your committee during the past year, studying the problem of malpractice in Los Angeles County. We have interviewed litigants, attorneys, officials of insurance carriers, and have been interviewed by plaintiffs and defendants, and have in every way possible tried to get the viewpoint of all parties concerned.

A steadily increasing cost for insurance of this kind would almost in itself tell the story. The Medical Protective Company, which carries the major portion of malpractice insurance in California, submits the following premium rates for $5,000, one case, and $15,000 total for policy year:

State	Premium	State	Premium
California	$30	Illinois	$18
Indiana	20	Iowa	18
Kansas	18	Kentucky	18
Massachusetts	36	Michigan	18
Minnesota	27	Missouri	30
New Jersey	24	Ohio	24
Pennsylvania	16	Texas	24
Wisconsin	22		

Nebraska: $1,000 to $2,500. Premium: $20

These rates show California to be second highest, next to Massachusetts. Nebraska would head the list if a policy of the same denomination were obtainable and sold at the same rate. Your committee finds difference in underwriting expense in various companies from 26 to 46 per cent of the premium. During the last twenty-five years, about a score of companies have engaged in selling malpractice insurance in California. After a few years' experience, it was found unprofitable and the majority have withdrawn from the field, leaving only three or four still engaged in this type of business.

The three American companies writing the major portion of the malpractice insurance in California are: Medical Protective Company; Aetna; and Zurich. A fourth company—Lloyd's of London—have recently come into the field, where they are writing an indemnity contract. Lloyd's operates under the excess liability law of California. There are approximately twelve different types of policies being written by the Lloyd's in Los Angeles. There appears to be considerable spread in the premiums charged by the different brokers.

These policies are certificates written by the brokers themselves, supposed to conform in general to a master policy in England, but into which the broker can write anything he chooses. These certificates show considerable variation and are practically all limited to bodily injury, or death as a result of malpractice, error or mistake. Many lack what is commonly understood to be complete coverage.

Certain irregular groups in the healing art find it impossible to buy insurance from any American company. The Medical Protective Company reports that it has lost money in the State of California during the past five years. The latter named company has had the greatest experience in defending malpractice suits, having defended 48,000 in the United States in the last forty years. From January 1, 1936 to January 1, 1937, the Medical Protective Company paid out $1.20 for every $1 premium collected in California, and for the first six months of 1937 the outlay has exceeded the premium intake by 20 per cent. This has precipitated a premium adjustment upward. The Medical Protective Company has restricted its policyholders entirely to members of the Los Angeles County Medical Association. It has restricted its limits of coverage, believing that the high limits provide bait for "easy money seekers." This, in the opinion of your committee, makes excess liability policies such as written by the Lloyd's of London and other companies necessary.

An amendment recently passed to the California Insurance Code decrees that "a surplus broker may sell insurance only if such insurance cannot be procured from the majority of the insurers admitted for the particular class of insurance, provided the insurance is not placed in the non-admitted insurer for the purpose of procuring a lower rate than would be expected by the admitted insurer."

The State of Pennsylvania, with 12,889 doctors, records only one-tenth as many malpractice suits as the State of California with 11,542 doctors. Cook County, Illinois, has approximately one-third as many suits filed as Los Angeles County, in spite of the fact that it has approximately twice as many doctors. Massachusetts is an unusually fertile field for the filing of malpractice suits and has a correspondingly higher premium rate. The highest premium, until recently, was in the State of Nebraska, where the laws admitted the introducing of evidence that the liability of the doctor was covered by insurance. Recently, this has been changed. The company previously carrying the majority of insurance in the State of Nebraska found it necessary to withdraw from the field, and upon resumption, has limited its policies in the state to $1,000 to $2,500.

There are approximately thirty to fifty men who belong to the Los Angeles County Medical Association who cannot buy insurance in the Fort Wayne (Medical Protective) company for various reasons.

It is your committee's opinion that comparatively few malpractice suits that go to trial have merit. Approximately 92 per cent of all the malpractice suits tried in the State of California are successfully defended.

It is interesting to note that in the metropolitan centers of California the press sees fit to publicize only such suits as involve men whose names have unusual news value. Your committee believes that the newspapers appreciate the inability of the doctor to defend himself against the damaging publicity, the greater percentage of which is without merit.

The greater majority of malpractice suits in which the plaintiff's case has merit are settled out of court. It is believed that approximately 50 per cent of all malpractice cases are taken by attorneys on a contingent basis, the attorney's contract calling for 33⅓ per cent of the recovery without trial and 50 per cent with trial.

Your committee has reviewed the transcribed testimony of many of the suits tried in the courts during the past year. The committee was particularly impressed with one case in which a county medical member testifying against his brother practitioner admitted on the stand that the fee involved was the only activating motive which prompted him to assume the interest of the plaintiff in the case. Your committee has also been interested in one type of suit in which a regular practitioner of medicine has sued his brother practitioner.

The committee is also impressed with the fact that medical testimony given in court is seldom scrutinized by those

qualified to judge of its accuracy or fairness. This fact apparently allows certain individuals to assume considerable latitude in their expressions of opinion.

Your committee was particularly interested to review the testimony of a medical expert appointed by the Court under Section 1871, Code of Civil Procedure, State of California, and was impressed with the eminent fairness of this witness. Unquestionably, the ends of justice could be better served by the utilization of Section 1871 (appointment of medical experts as court officers), if the judges had the opportunity to select these appointees free from political or personal influence and provided the appointees were individually properly fitted to the task.

A review of the malpractice suits for 1936 and 1937 discloses that plaintiffs' experts number approximately thirty men. residing in Los Angeles County. Of this number in 1936, approximately 20 per cent were nonmembers and irregulars, whereas a study of the 1937 record reveals the fact that approximately 70 per cent were nonmembers and irregulars.

A study of the transcribed testimony further shows definite evidence of a tendency on the part of doctors appearing as adverse experts against their fellow practitioners to give impressive testimony without adequate careful examination into, or knowledge of the matter in hand. It is not uncommon to find gross misstatements.

Your committee takes cognizance of the fact that oftentimes counsel is doing his best to confuse the witness and trick him into saying something that he does not mean.

The figures show that approximately 66 per cent of all malpractice suits filed were against surgeons, and 33 per cent were against internists and diagnosticians.

Your committee believes that in malpractice suits, as in personal injury and many other types of suits, the average jury is often incapable of decisions based on fact rather than sympathy.

There has been a decided increase in the disposition of claims, thus reducing the number of suits where the circumstances merited such a course. Certain companies are now making a premium differential to cover certain classifications where the hazard is obviously more prevalent. They are also making a strenuous effort to educate its policyholders and assist them in avoiding the pitfalls.

The Medical Protective Company reports that the average duration of a malpractice trial in Los Angeles County is four and one-half days; that the most of defense is $175 per diem. Assuming the present rate of $32 for policy covering $5,000 to $15,000, total premium at the end of thirty years would be the equivalent of approximately five days' expense in court, provided the case was won and there were no judgment damages to pay.

Your chairman feels that we are fortunate in having as a member one who is also a practicing attorney and a member of the Los Angeles Bar Association Bulletin Committee, which committee has expressed their willingness to coöperate. It is believed that the Bar Association would look kindly upon the publication of a summarization of the views of this whole situation.

1. Your committee recommends publication in the *Bulletin* of transcribed testimony of malpractice suits tried in this county, either in whole or in part. Your committee believes this would assist materially in the enlightenment of the profession at large who would otherwise not have an opportunity to acquaint themselves with what transpires in the courts of our community.

2. Your committee recommends that there be a renewal of efforts to secure legislation requiring a bond by plaintiff when filing malpractice suits, similar to the law requiring a bond to be filed with libel suits against newspapers. Your committee believes that such legislation would eliminate many of the "spite suits" and relieve the profession of the damage of adverse publicity.

3. Your committee recommends that the doctors of medicine, both on individual and institutional bases, endeavor to improve the quality of their records.

4. Your committee recommends that the Committee on Malpractice Defense be enlarged to seven members, including the president and vice-president of the Los Angeles County Medical Association. This would divide the task of reviewing the transcribed testimony in malpractice suits and greatly facilitate the work of the committee.

5. Your committee recommends that serious consideration be given by the Council to the suggestion coming from several of the carriers of this type of insurance, namely, that the cases of malpractice filed against its members be reviewed by the Malpractice Defense Committee and the committee's opinion regarding the medical merits of the case be made available to the legal department of the defendant company; that arrangements be made by which the Malpractice Defense Committee could call in consultation from the different sections, men qualified to assist in this work.

Respectfully submitted,

MALPRACTICE DEFENSE COMMITTEE.

Harold Dewey Barnard, M.D., *Chairman*
Wendy Stewart, M.D.
Fred B. Clarke, M.D.

FEDERAL FUNDS BANNED FOR DISTRICT OF COLUMBIA GROUP MEDICINE PLAN*

Ruling on Technical Grounds HOLC Loan for Health Clinic Was Illegal—District of Columbia Legal Approach to Problem

Richard N. Elliott, Acting Comptroller General, has ruled that the Home Owners' Loan Corporation was without legal authority in loaning $37,357.65 to the Group Health Association, Inc., which maintains a health clinic for one thousand workers in Federal Government offices. The decision, however, was based on technical grounds, and does not affect the broad issue of socialized medicine, which is rapidly assuming greater importance in the United States as mass clinics spread.

Mr. Elliott's decision is simply to the effect that a federal agency has no right to use taxpayers' money for purposes other than those stipulated in laws establishing the agency in question. The decision would stand equally, it is presumed, against a group recreation center, a circulating library, or any similar activity outside the main statutory purposes of the agency. A federal department or agency, he rules, has no right to spend money for what it considers the welfare of its employees.

Therefore, the basic issue of socialized medicine remains to be considered by other authorities. Already Elwood H. Seal, corporation counsel of the District of Columbia, is examining the general legal status of Group Health Association, Inc. He is studying two questions: (1) Whether the Group Health Association is a corporation illegally engaged in the practice of medicine; and (2) whether it is operating an insurance business without being licensed as such.

On these two contentious points briefs have been filed by counsel of the District of Columbia Medical Society, attacking the Group Health Association following sharp criticisms by the American Medical Association. Officials of the Federal Home Loan Bank board defend their action in supporting the Group clinic, pointing out that it is incorporated under the laws of the District, and claiming it is "selling service."

But the acting Comptroller General's ruling takes a firm stand against diversion of funds for purposes such as the health clinic. Action of the HOLC board in turning over $37,357.65 to the clinic is described as "without authority of law," and Mr. Elliott also brands as "of doubtful legality" the "emergency rooms" or first-aid headquarters maintained by most other Government departments.

NEW LAWS SOUGHT

Senator Pat McCarran (Democrat) of Nevada, at whose request the ruling was made, says it should be followed by "specific legislation making it impossible for this to recur in Government departments. . . . No department should take upon itself authority to divert public money and the appropriating of it. . . . This stands as an example of what may be going on in departments, and should result in legislation with teeth in it."

Because of the "emergency status of the HOLC, some doubt still exists as to the precise effect of the comptroller-general's ruling. The HOLC and its group-medicine offspring have a unique corporative status, and it may be necessary to have acts of Congress to limit their use of

* See also articles in December issue of CALIFORNIA AND WESTERN MEDICINE, on page 433, and editorial comment thereon in January number, on page 4.